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| APPLICATION NO.                    | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/674,220                         | 09/29/2003  | Jessy Rouyer         | 13916USNP           | 2505             |
| 75940                              | 7590        | 12/01/2011           |                     |                  |
| GARLICK, HARRISON & MARKISON (ALU) |             |                      |                     |                  |
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| AUSTIN, TX 78716-0727              |             |                      |                     |                  |
| EXAMINER                           |             |                      |                     |                  |
| CHRISS, ANDREW W                   |             |                      |                     |                  |
| ART UNIT                           |             | PAPER NUMBER         |                     |                  |
| 2472                               |             |                      |                     |                  |
| NOTIFICATION DATE                  |             | DELIVERY MODE        |                     |                  |
| 12/01/2011                         |             | ELECTRONIC           |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

MMurdock@texaspatents.com  
GHMdocteting@cpaglobal.com  
ghimptocor@texaspatents.com

**Office Action Summary****Application No.**

10/674,220

**Applicant(s)**

ROUYER ET AL.

**Examiner**

ANDREW CHRISS

**Art Unit**

2472

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 October 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1-20 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-20 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's amendment, filed October 27, 2011, has been entered and carefully considered. Claim 1 is amended, Claim 21 is canceled, and Claims 1-20 are currently pending.
2. In light of Applicant's amendment to Claim 1, the outstanding rejection of Claims 1-20 under 35 U.S.C. 103(a) is withdrawn.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. **Claims 1-20** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Claim 1 has been amended to recite "a route indicator field further comprising one or two bits that indicate a link type." However, as described in Applicant's disclosure as originally filed at paragraph 0020, the "...link type field is a *one-bit field* and it is contemplated that it could be a bit provided as an addition to existing Ethernet frames or, alternatively, it could be a bit that is already in the Ethernet frame..." (emphasis added by Examiner). Therefore, the claim limitation requiring that the route indicator field comprise two bits is not supported by Applicant's disclosure, as originally filed, and is therefore new matter. Examiner notes that the specification

does provide support for the route indicator field comprising multiple bits when the route indicator field is a link set field at paragraph 0034. However, the route indicator field is claimed as comprising the link type field and not the link set field. Further, Claim 1 has been amended to recite “in response to a change of state of the one or two bits *in the route indicator field to indicate a link failure*, accessing an internal bypass table to determine a second route” (emphasis added by Examiner). However, as described at paragraph 0040 of Applicant’s disclosure as originally filed, “...the route indicator field is a link type field...operable to indicate that the packet is to continue along a spanning tree route or a bypass route.” Further, as described at paragraph 0020 of Applicant’s disclosure as originally filed, “Link type field ... is so named because, as shown below, the state of the field indicates the type of link on to which the packet is routed, with one state in field ... (e.g., 0) indicating a spanning tree link and another state in field ... (e.g., 1) indicating a bypass link along system.” As shown by the cited portions of Applicant’s disclosure, the link type field indicates which link the packet should be routed on and does not indicate the link failure itself. Therefore, the newly amended claim limitation “in response to a change of state of the one or two bits in the route indicator field to indicate a link failure, accessing an internal bypass table to determine a second route” is new matter. **Claims 2-20** are rejected due to dependence on Claim 1.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 1-20** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. **Claim 1** recites “responsive to the packet being received *after a time of*

*failure...accessing an internal bypass table to determine a second route...wherein the second route differs from the first route and is identified prior to the time of failure*" (emphasis added by Examiner). As such, the claim language requires both determining the second route after failure and identifying the second route before failure. Since the acts of "determining" and "identifying" are not further limited in the claim language so as to show how each act is distinct from the other, it is unclear how the second route can be determined both after failure and identified before failure. **Claims 2-20** depend on Claim 1 and fail to resolve the deficiencies therein.

#### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new grounds of rejection.

#### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Wallace et al (United States Patent 6,178,178) is directed to selecting between a primary and secondary link.

9. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW CHRISS whose telephone number is (571)272-1774. The examiner can normally be reached on Monday - Friday, 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 571-272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Chriss/  
Primary Examiner, Art Unit 2472  
11/23/11

Application/Control Number: 10/674,220  
Art Unit: 2472

Page 6